IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 3535 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 3536 OF 2005

Rajkumar Nagpal & Anr ...Applicants

Versus

Parmjit Singh Bhasin & Anr ...Respondents

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Mr. R.R. Dhuru, Advocate for Applicants.

Mr. D.P. Adsule, and Ms. S.V. Gajare, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED:29TH JUNE, 2005

P. C.:-

1. Heard both sides.

2. The applicants have prayed for quashing of Complaint No. 462/S/2005 and 463/S/2005 which are pending in the Court of learned Additional Chief Metropolitan Magistrate, 12th Court, Bandra, Mumbai. In the said case, process has been issued against the applicants under Section 138 of Negotiable Instruments Act.

3. The applicants had preferred an application before the learned Magistrate for recalling of process, however, it is clear that in view of the decisions of the Supreme Court in the case of **Adalat Prasad Vs. Rooplal Jindal and Ors. 2004 (4) Mh.L.J.**

274, that Magistrate has no power to recall the process issued by him.

4. However, for the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No. 550 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that the necessary revision would be preferred within a period of three weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of three weeks from today.

6. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Criminal applications are disposed of.

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